

HOUSE BILL 2394

By Fincher

AN ACT to amend Chapter 223 of the Private Acts of 1961; as amended by Chapter 485 of the Private Acts of 1968 and Chapter 244 of the Private Acts of 1978; and any other acts amendatory thereto, relative to the charter for the City of Cookeville.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article I, Section 1.05 by deleting subsection (q) and by substituting instead the following:

(q) To provide that persons given jail sentences in the city court shall work out such sentences on the streets or any public works of the city or in a city workhouse established for such purpose, as provided by ordinance; or the council may provide for the commitment of city prisoners to the county workhouse or jail by agreement with the appropriate county officers.

SECTION 2. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article II, Section 2.01 by deleting the following language:

The Mayor and Commissioners in office on the effective date of this act shall remain in office as councilmen until the expiration of the term for which they were elected and until their successors have been elected and take office, as provided in Section 2.12.

SECTION 3. Chapter 223 of the Private Acts of 1961, as amended by Chapter 485 of the Private Acts of 1968, and any other acts amendatory thereto, is amended in Article II by deleting Section 2.03 in its entirety and by substituting instead the following:

Section 2.03. The monthly salary of councilmen shall be approved by ordinance by a two-thirds (2/3) vote by the city council. The council shall also be empowered to

establish by resolution the procedure for reimbursing councilmen for necessary expenses incurred in connection with city business.

SECTION 4. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article II by deleting Section 2.05 in its entirety and by substituting instead the following:

Section 2.05. Powers.

- (1) Appoint and remove the city manager;
- (2) Establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the city;
- (4) Authorize the issuance of bonds;
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (6) Appoint the members of the Hospital Board of Trustees;
- (7) Appoint the members of the planning commission;
- (8) Appoint the members of an Industrial Development Board;
- (9) Appoint the members of the zoning board of appeals;
- (10) Adopt plats;
- (11) Adopt and modify the official map of the city;
- (12) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, industry, business, residence or other purposes;
- (13) Provide for safe and sanitary housing accommodations for families of low income;
- (14) Appoint the members of the housing authority, the Alcoholic Beverage Control Board, and any other boards or committees necessary;

(15) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;

(16) Adopt, modify and carry out plans proposed by the planning commission for the re-planning, improvement and redevelopment of neighborhoods and for the re-planning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster; and

(17) Provide for an independent audit.

SECTION 5. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article II by deleting Section 2.11 in its entirety and by substituting instead the following:

Section 2.11. The city manager shall appoint an officer of the city who shall have the title of city clerk, and shall be confirmed by the city council. The city clerk shall give notice of council meetings, shall keep the journal of council proceedings, shall authenticate by such clerk's signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this charter or by ordinance.

SECTION 6. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article II by deleting Section 2.12 in its entirety and by substituting instead the following:

Section 2.12. The first meeting of each newly elected council, for induction into office, shall be held at the next regularly scheduled meeting following its election, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All meetings of the council shall be open to the public.

SECTION 7. Chapter 223 of the Private Acts of 1961, as amended by Chapter 244 of the Private Acts of 1978, and any other acts amendatory thereto, is amended in Article II by deleting Section 2.15 in its entirety and by substituting instead the following:

Section 2.15. Any action of the council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this act, shall be done only by ordinance. A resolution shall have a brief title describing its contents and a body containing its detailed provisions, but a motion shall consist only of a brief statement of the action proposed to the council. Each resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least three (3) members of the council shall be required to pass any motion, resolution, or ordinance. Each ordinance, before being adopted, shall be considered and passed at two (2) meetings one (1) week apart, except that an emergency ordinance may be passed at two (2) meetings only one (1) day apart, and shall take effect fourteen (14) days after its adoption, except that an ordinance containing a full statement of the facts and reasons for an emergency may be made effective upon its adoption if approved by at least four (4) members of the council on both readings. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or subsections in their amended form. A code may be adopted by an ordinance, which contains a reference to its title, date, and, issuing organization, but the city shall furnish a copy of any such code to any person for a reasonable fee. The city clerk shall number ordinances consecutively in the order of their adoption and shall copy them into a permanent record book used solely for this purpose, and the city clerk shall do likewise for resolutions, using a separate series of numbers and a separate record book. The original copies of all ordinances, resolutions, and motions shall be filed and preserved by the city clerk. An abstract of the essential provisions of each ordinance shall be published once in the official city newspaper within ten (10) days after its adoption, except that only the title of a code adopted by reference as provided in this section shall be so published.

SECTION 8. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article IV by deleting Section 4.01 in its entirety and by substituting instead the following:

Section 4.01. The fiscal year of the city government shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year, but a different fiscal year may be provided by ordinance for the entire city government or for any utility.

SECTION 9. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article VII by deleting Section 7.01 in its entirety and by substituting instead the following:

Section 7.01. A city court, presided over by the city judge, on a full or part time basis as provided by ordinance is hereby established, which shall have jurisdiction over violations of the ordinances of the city. The council shall appoint and fix the salary of the city judge for terms of two (2) years, and such salary shall not be changed during a term of office. The council may impeach and remove the city judge for neglect or refusal to enforce the ordinances of the city or for other misconduct in office or neglect of duty, but any person so removed may appeal to the circuit court and thence to the supreme court of the state. The city attorney, or an assistant city attorney, shall be the prosecuting officer of the court. The city judge shall recuse himself from any case or proceeding in which such judge:

(a) Is interested,

(b) Is related to the defendant by blood or marriage within the third degree, or

(c) Believes, for any reason, that he will be prejudiced.

Such a case of proceeding, as well as cases and proceedings during the absence or disability of the city judge, shall be heard by an acting city judge appointed by the mayor. The mayor may remove the acting city judge at any time without cause. The council shall, by ordinance, fix the compensation of an

acting city judge. The city judge shall have authority to impose fines, costs, forfeitures, and imprisonment in the city jail or workhouse, as provided by ordinance. Warrants, subpoenas, and other processes of the city court shall be executed by police officers of the city, who for such purposes shall have the same powers and authority as a sheriff executing process of a circuit court.

SECTION 10. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended in Article VII by deleting Section 7.07 in its entirety and by substituting instead the following:

Section 7.07. The city shall have a city attorney who shall serve on a part-time basis or a full-time basis as follows:

(a) In the event the council elects to retain a city attorney to serve on a part-time basis, the council shall appoint and fix the compensation of the city attorney for a term of two (2) years, together with such assistant city attorneys as may be authorized by ordinance or resolution. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party, shall attend all meetings of the council, shall advise the council, city manager, and other officers and employees of the city concerning legal aspects of the city's affairs, shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents, and shall perform such other duties as may be prescribed by the council or city manager.

(b) In the event the council elects to create a legal department directed by a full-time city attorney, the city attorney and such other employees as may be authorized by ordinance shall be appointed by the city manager, and shall be confirmed by the city council. The city attorney shall have control and supervision over all employees assigned to the legal department, subject to the supervision of the city manager. The city attorney shall be responsible for representing and defending the city in all litigation, or shall assist other attorneys that may represent the city in litigation in which the city is a party. The city attorney shall attend all

meetings of the city council, shall advise the council, city manager, and other officers and employees of the city concerning legal aspects of the city's affairs, shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, and other legal documents, and shall perform such other duties as may be prescribed by the council or city manager.

SECTION 11. Chapter 223 of the Private Acts of 1961, and any other acts amendatory thereto, is amended by deleting Article XII in its entirety.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the city of Cookeville. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of the city of Cookeville and certified to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 12.